

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

**JOHN POLAND, INDIVIDUALLY
and d/b/a JPP NC, LLC**

Plaintiff,

v.

**BUDDY GREGG MOTOR HOMES, INC.;
NATIONAL RV HOLDINGS, INC.
d/b/a COUNTRY COACH, INC;
and COUNTRY COACH, INC.,
a corporation**

Defendants

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CASE NO.: 03-CV-340

JURY DEMAND

JUDGE VARLAN

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT COUNTRY COACH,
INC.'S MOTION FOR SUMMARY JUDGMENT**

Comes the Plaintiff, John Poland individually and d/b/a JPP NC, LLC, by and through counsel, in accordance with Federal Rule of Civil Procedure 56 and responds in opposition to Defendant Country Coach, Inc.'s Motion for Summary Judgment and states as follows: (1) Plaintiff has standing to pursue this action; (2) Plaintiff exhausted administrative remedies; (3) Plaintiff has legally cognizable damages; and (4) Defendant Country Coach, Inc. is not entitled to summary judgment as a matter of law on Plaintiff's breach of warranty, breach of contract, consumer protection act and revocation of acceptance claims. Defendant Country Coach, Inc. is also not entitled to summary judgment on Plaintiff's claim for injunctive relief. Genuine issues of material fact preclude the Court's dismissal of Plaintiff's claim under the summary judgment provisions of Federal Rules of Civil Procedure 56. Final Judgment under Federal Rule of Civil

Procedure 54 is, therefore, inappropriate as well. In support of his motion, Plaintiff relies upon the following:

- (1) Memorandum of law and facts attached hereto;
- (2) Deposition of John Poland;
- (3) Deposition of Zoryada Poland;
- (4) Deposition of Mack Molder;
- (5) Affidavit of Zoryada Poland;
- (6) Affidavit of John Poland;
- (7) Plaintiff's Supplemental Responses to Country Coach, Inc.'s First Set of

Interrogatories;

- (8) Defendant Country Coach, Inc.'s supplemental answers to deposition upon written question; and
- (9) the entire record.

Respectfully submitted,

s/ Dirlie A. McDonald
Dirlie A. McDonald, BPR # 20357
P. O. Box 1
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CERTIFICATE OF SERVICE

I have served a copy of the above document on the _30 day of September, 2004 by prepaid U.S. Mail, facsimile or hand delivery to counsel as listed below:

E. Todd Presnell, Esq.
Miller and Martin LLC
1200 Nashville Place
150 Fourth Ave. North
Nashville, TN 37219 – 2433

*Attorneys for Defendants National RV Holdings, Inc. d/b/a Country Coach,
Inc. and Buddy Gregg Motor Homes Inc and Country Coach, Inc., a corporation.*

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s/Dirlie A. McDonald
Dirlie A. McDonald